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**GENERAL PROVISIONS**

145 The 1949 Geneva Conventions contain certain provisions of a general character and others which are more limited in their application. In the 1929 Geneva Convention on Prisoners of War, this section consisted of what is now Part II, 'General protection of prisoners of war'.<sup>1</sup> But when it was proposed to revise the Conventions, it was thought necessary to arrange the provisions methodically across the four Conventions. Accordingly, the ICRC placed at the beginning of each of the four draft conventions the principal provisions of a general character, in particular those which enunciated fundamental principles to be repeated in the four conventions. This more logical arrangement had the advantage of preparing the way for the combination of the four conventions in a single instrument, which was contemplated at the time.<sup>2</sup> The suggested arrangement was adopted by the 17th International Conference of the Red Cross in Stockholm in 1948 and later by the Diplomatic Conference that adopted the Conventions in 1949.

146 Most of the articles in the present part are accordingly to be found in identical, or slightly modified, form in the three other Conventions. As a result, the commentaries on these provisions are also largely identical, except with regard to their specific application in the context of a particular Convention.

147 The articles in this part have come to be known as the 'common articles' of the Geneva Conventions. They are, first and foremost:

- common Article 1, on the obligation to respect and ensure respect for the Convention;
- common Article 2, setting out the scope of application of the Convention in respect of international armed conflict and occupation; and
- common Article 3, concerning non-international armed conflict.

148 Articles 4 and 5 are also included in this part although they are not common as such. They are in fact among the most important provisions of the Third Convention. Article 4 sets out the list of persons entitled to prisoner-of-war

<sup>1</sup> With the exception of Article 1 of the 1929 Convention, which corresponds to Article 4 of the 1949 Convention. Articles 2–4 of the 1929 Convention correspond to Articles 12–16 of the 1949 Convention.

<sup>2</sup> See *Report of the Conference of Government Experts of 1947*, p. 332, and *Draft Conventions submitted to the 1948 Stockholm Conference*, p. 4.

status or treatment, and Article 5 regulates the beginning and end of application of the Convention.<sup>3</sup>

149 The Fourth Convention has an additional separate provision in Article 5 (on derogations) and deals with the beginning and end of its application in Article 6. As a result, from Article 6 of the Third Convention onwards the common articles have the same numbering in the first three Conventions, with the corresponding article in the Fourth Convention being one digit higher. Therefore, the remaining articles in this part are:

- common Article 6 (Article 7 in the Fourth Convention), dealing with the special agreements that the High Contracting Parties may conclude;
- common Article 7 (Article 8 in the Fourth Convention), containing the principle of non-renunciation of rights;
- common Article 8 (Article 9 in the Fourth Convention), regulating the role of the Protecting Powers;
- common Article 9 (Article 10 in the Fourth Convention), dealing with the activities of the ICRC or other impartial humanitarian organizations;
- common Article 10 (Article 11 in the Fourth Convention), on appointing a substitute for the Protecting Powers; and
- common Article 11 (Article 12 in the Fourth Convention), setting out the conciliation procedure under the Conventions.

150 There are also common articles at the end of the Convention, found in Part VI (Execution of the Convention), consisting of general provisions (Section I) for matters such as dissemination of the Convention and repression of abuses, and the final provisions (Section II). For more details, see the introductions to Part VI and its constituent sections.

<sup>3</sup> In the First Convention, Article 4 deals with the application of the Convention by neutral Powers, whereas Article 5 deals with the duration of the application of the Convention. In the Second Convention, Article 4 deals with the field of application of the Convention, whereas Article 5 deals with the application of the Convention by neutral Powers. In the Fourth Convention, Article 4 defines the persons protected by the Convention, and Article 5 sets out some very limited derogations from the rights and privileges afforded under the Convention.